

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HARVEY DUNCAN,

Petitioner,

v.

COMMONWEALTH OF PA,

Respondent.

) 2:11cv682
) Electronic Mail
)
) Judge Cercone
) Magistrate Judge Eddy
)
)
)

MEMORANDUM ORDER

On May 23, 2011, the above captioned case was filed in this Court and was referred to a magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on October 17, 2011, (doc. no. 4) recommending that the action be dismissed for failure to prosecute. Plaintiff was served with the Report and Recommendation at his listed address and was advised that he had until October 31, 2011, to file written objections to the Report and Recommendation. No objections have been filed.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, ^{by} the following order is entered:

AND NOW, this 30 day of November, 2011;

IT IS HEREBY ORDERED that this action is **DISMISSED** for failure to prosecute.

IT IS FURTHER ORDERED that the Report and Recommendation (doc. no. 4) dated October 17, 2011, is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.



David Stewart Cercone
United States District Judge

cc: HARVEY DUNCAN
DOC 274, Pod 3F
Allegheny County Jail
950 Second Avenue
Pittsburgh, PA 15219